UNITED STATES DISTRICT COURT FOR THE Western DISTRICT OF Texas

MOTION BY A PERSON IN FEDERAL CUSTODY
TO VACATE, SET ASIDE, OR CORRECT SENTENCE UNDER 28 U.S.C. § 2255

UNITED STATES DISTRICT COURT	Division Del Rio Division	
Name of Movant/Defendant Rolando Menchaca	Prisoner No. 87199-280	Case No. DR-11-CR-2197 (1)
Place of Confinement (including address)	FCC Beaumont Low PO Box 26020 Beaumont TX 77720	

UNITED STATES OF AMERICA	V.	Rolando Menchaca
		(name under which convicted)

MOTION

DR15CA010

1. Name and location of court which entered the judgment of conviction under attack:

U.S. District Court, Western Division of Texas, Del Rio

2. Date of judgment of conviction: February 7, 2014

3. Length of sentence: 240 Months

4. Nature of offense involved (all counts):

Count (1) Distribution of Marijuana (1,000 Kilograms or more)

21 U.S.C. §841(a)(1) and (b)(1)(a) and 846

Count (2) Conspiracy to Commit Money Laundering.

5. What was your plea? (Check one)
   (a) Not Guilty ☐
   (b) Guilty ☒
   (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details: Defendant plead guilty to Count 1 and Count 2 was dismissed as per the plea agreement.

6. If you pleaded not guilty, what kind of trial did you have? (Check one)
   (a) Jury ☐
   (b) Judge only ☐

7. Did you testify at the trial? Yes ☐ No ☐

8. Did you appeal from the judgment of conviction to the   5th   Circuit Court of Appeal?
      Yes ☐   No ☒

9. If you did appeal, answer the following:

  (a) Result: _____

  (b) Date of result and mandate: _____

10. Did you file a petition for rehearing?
      Yes ☐   No ☒

11. If you did file a petition for rehearing, provide the date and result of the petition: _____

_____

12. Did you file a petition for certiorari review?
      Yes ☐   No ☒

13. If you did file a petition for certiorari review, provide the date and result of the petition: _____

_____

14. Have you previously filed any post-conviction petitions, applications or motions, including previous § 2255 motions, with respect to this judgment in any federal court?
      Yes ☐   No ☒

15. If your answer to 14 was "yes," give the following information:

  (a) (1) Name of court: _____

      (2) Nature of proceeding: _____

      _____

      (3) Grounds raised: _____

      _____

      _____

      _____

      _____

      (4) Did you receive an evidentiary hearing on your petition, application or motion?
          Yes ☐   No ☐

      (5) Result: _____

      (6) Date of result: _____

(b) If you filed more than one such petition, please include the same information requested in 11(a) on a separate sheet of paper.

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on your petition, application or motion?

(1) First petition, etc.   Yes ☐   No ☐

(2) Second petition, etc.   Yes ☐   No ☐

(d) If you did *not* appeal from the adverse action of any petition, application or motion, explain briefly

why you did not: _____

_____

_____

_____

16. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

A. Ground one: __Ineffective Assistance of Counsel__

_____

Supporting FACTS (state *briefly* without citing cases or law): _____

_____ "See Attached Brief in Support" _____

_____

_____

_____

_____

B. Ground two: __Actual Innocence__

_____

Supporting FACTS (state *briefly* without citing cases or law): _____

_____ "See Attached Brief in Support" _____

_____

_____

_____

C. Ground three: _____

_____

Supporting FACTS (state *briefly* without citing cases or law): _____

_____

_____

_____

_____

_____

_____

D. Ground four: _____

_____

Supporting FACTS (state *briefly* without citing cases or law): _____

_____

_____

_____

_____

_____

_____

17. As to the grounds listed in 16A, B, C, and D, explain whether any grounds were previously presented,

and for those that were not previously presented, state *briefly* your reasons for not presenting them: _____

Said grounds have not been presented because this is

Defendant's first opportunity to present such claims.

_____

18. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐   No ☒

19. Do you have any future sentence to serve after you complete the sentence imposed by the judgment
under attack?
Yes ☐   No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

_____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
    Yes ☐   No ☐

20. What relief do you request from this Court? <u>To resentence Defendant based</u>

<u>upon the proper quanity of drugs Defendant is responsible</u>

<u>for.</u>

Wherefore, movant prays that the Court grant the relief to which he or she may be entitled in this proceeding.

_____
Signature of Attorney (if any)

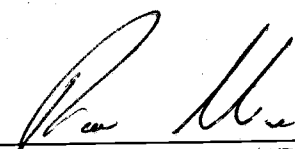I declare under penalty or perjury that the foregoing is true and correct. Executed on:

_1/21/15_____
(Date)

_____
Signature of Movant/Defendant

IF MAILED BY PRISONER:

I declare or state under penalty of perjury that this petition was (check one):
☐ delivered to prison officials for mailing, or ☒ deposited in the prison's internal mail system on:

_1/21/15_____ (date).

_____
Signature of Movant/Defendant

Revised 07/02

5

ROLANDO MENCHACA #87199280
FCI BEAUMONT TX. 77720
P.O.BOX 26020
BEAUMONT TX. 77720

CERTIFIED MAIL™

7010 3090 0003 3484 0938

LEGAL MAIL

⇔87199-280⇔
Us Us Disrtict Clerk
111 E Broadway Rm L-100
DEL RIO, TX 78840
United States

78840#5573 C072